

CHAPTER 10

AN ACT concerning athletic activities of students with disabilities and supplementing chapter 11 of Title 18A of the New Jersey Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.18A:11-3.5 Findings, declarations relative to athletic activities of students with disabilities.

1. The Legislature finds and declares that:

a. The United States Government Accountability Office issued a report in June 2010 that underscored that access to, and participation in, extracurricular athletic opportunities provide important health and social benefits to all students, particularly those with disabilities, including socialization, improved teamwork and leadership skills, and fitness. Unfortunately, the report found that students with disabilities are not being afforded an equal opportunity to participate in extracurricular athletics in public elementary and secondary schools.

b. The United States Department of Education, Office for Civil Rights, issued guidance on January 25, 2013, which clarifies existing legal obligations of school districts to provide equal access to extracurricular athletic activities to students with disabilities and urges school districts to work with community organizations to increase athletic opportunities for students with disabilities in club, intramural, and interscholastic athletic programs.

c. Students with intellectual, developmental, physical, and other forms of disabilities should consistently have opportunities to participate in athletics equal to those of other students, which is in keeping with school district responsibilities under section 504 of the federal Rehabilitation Act of 1973, 29 U.S.C.s.794, regarding the provision of extracurricular activities.

C.18A:11-3.6 Definitions relative to athletic activities of students with disabilities.

2. As used in this act:

“Adapted program” means a program that is developed for a student with a disability.

“Athletic program” means a club, intramural, or interscholastic athletic activity that is developed and offered to students by the school district.

“Physical education program” means the physical education program of the school district.

“Student with a disability” means a student who meets the definition of a “handicapped person” as defined in 45 C.F.R.s.84.3 (j).

“Unified sports program” means an athletic program that combines individuals with disabilities and individuals without disabilities.

C.18A:11-3.7 Obligations of school district, exceptions.

3. a. Each school district shall, subject to the provisions of subsection b. of this section:

(1) ensure that a student with a disability has an equal opportunity to: participate in physical education programs; participate in existing classroom activities that involve physical activity; and try out for and, if selected, participate in athletic programs in an integrated manner to the maximum extent appropriate to the needs of the student; and

(2) ensure the provision of reasonable modifications or aids or services necessary to provide a student with a disability an equal opportunity to participate in physical education programs, existing classroom activities that involve physical activity, and athletic programs

as set forth in paragraph (1) of this subsection in an integrated manner to the maximum extent appropriate to the needs of the student.

b. An exception to the requirements under subsection a. of this section may be made when the inclusion of a student with a disability:

(1) presents an objective health or safety risk to the student or to others, based on an individualized assessment of the student; or

(2) fundamentally alters the nature of the physical education program or athletic program in accordance with the “Americans with Disabilities Act of 1990,” 42 U.S.C. s.12101 et seq. and section 504 of the Rehabilitation Act of 1973, 29 U.S.C. s.794.

C.18A:11-3.8 Reasonable efforts when exception applies.

4. In the event that an exception applies under subsection b. of section 3 of this act, a school district, in consultation with students, parents, community members, and advocacy groups, shall make reasonable efforts to provide a student with a disability the opportunity to participate in existing adapted or unified sports programs facilitated by community organizations, such as the Special Olympics New Jersey. A school district may develop such programs on a school, district, regional, or county basis. The provision of an adapted program or a unified sports program for a student with a disability shall not mitigate the responsibility of the school district to provide a student with a disability an equal opportunity to participate in programs and activities in accordance with section 3 of this act.

C.18A:11-3.9 Interscholastic athletic programs for certain student-athletes with disabilities.

5. The New Jersey State Interscholastic Athletic Association, in consultation with Special Olympics New Jersey and any other adapted sports organizations, may establish interscholastic athletic programs for student-athletes with intellectual or developmental disabilities who are participating in a unified sports program of athletics developed by a school district. The New Jersey State Interscholastic Athletic Association may require any coach of a unified sports program of athletics to receive training specific to that program.

6. This act shall take effect in the 2015-2016 school year.

Approved June 19, 2014.